IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 6055 OF 2006

Sil Boards Private Limited.... Petitioner

versus

Executive Engineer, Electricity
and others ..... Respondent.

Mr. Doctor Mustafa with Ms. Jyotsna Kondhalkar i/b. M/s. Vigil Juris for the petitioners.

Mr. Girish Kulkarni with Mrs. Swati Deshpande for Respondent nos. 1 and 2.

CORAM; A.P. DESHPANDE, J.
DATED; 04TH OCTOBER, 2007

P.C.;

1. The respondent, Executive Engineer, Electricity raised a demand for arrears of electricity charges against the present petitioners in the sum of Rs. 8,99,876/-, the legality and validity of which was the subject matter of an Electricity Appeal pending on the file of Administrator, Dadra and Nagar Haveli at Silvassa. The said claim for arrears of electricity charges was for the period commencing from October 1999 to July 2005. Before the Appellate Authority, the present petitioner in all fairness did not dispute the liability but admitted the same and prayed for grant of instalments for payment of the amount. The Appellate Authority being satisfied about the

bonafides shown by the petitioner, granted 12 instalments for payment of the amount demanded and also directed charging of simple interest at the rate of 9% per annum. It is obvious that simple interest at 9% per annum was granted as the Appellate Authority was impressed by the bonafides shown by the petitioner in admitting the demand and having shown willingness to pay the amount, though in instalments. It is now undisputed that the petitioner has already paid the entire amount as directed by the authority below, rendering this petition infructuous. However, strangely enough, the learned counsel for the petitioner has submitted that the petitioner wants to amend the writ petition with a view to claim the amount of electricity charges paid by the petitioner to the respondents, solely on the ground that the authority below did not grant the number of instalments prayed for by the petitioner, but granted lesser number of instalments. It is submitted that the petitioner proposes to move the amendment application with a view to recover the said amount. The proposed moving of an amendment application is not only a dishonest attempt but is also misconceived. Having taken the advantage of part of the order passed by the authority below, taking a liberal approach, relying upon the bonafides shown by the petitioner before it, the petitioner cannot turn around and seek

to claim the amount paid to the respondent under the pretext that lesser number of instalment was granted than what was prayed for. I do not find any merit or substance in this petition and more so in the amendment which the petitioner proposes to apply for. The petitioner cannot be permitted to approbate and reprobate at the same time. Hence the writ petition is summarily dismissed.

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